



This document is scheduled to be published in the Federal Register on 05/04/2015 and available online at <http://federalregister.gov/a/2015-10264>, and on [FDsys.gov](http://FDsys.gov)

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0107, Notice 2]

Decision That Nonconforming Model Year 2010 European

Market Ferrari California Passenger Cars Are

Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT)

**ACTION:** Grant of petition

**SUMMARY:** This document announces a decision by the National Highway Traffic Safety Administration that certain Model Year (MY) 2010 Ferrari California passenger cars (PCs) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States that were certified by their manufacturer as complying with the safety standards (the U.S. certified version of the MY 2010 Ferrari California PC), and they are capable of being readily altered to conform to the standards.

**DATES:** This decision became effective on April 28, 2015.

**ADDRESSES:** For further information contact George Stevens,  
Office of Vehicle Safety Compliance, NHTSA (202-366-5308).

**SUPPLEMENTARY INFORMATION:**

Background

Under 49 U.S.C 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified as required under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

J.K. Technologies, LLC, of Baltimore, Maryland ("JK") (Registered Importer# RI-90-006), petitioned NHTSA to decide whether certain MY 2010 Ferrari California PCs are eligible for importation into the United States. NHTSA published a notice of the petition on March 21, 2014 (79 FR 15800) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

**COMMENTS:**

On April 21, 2014, NHTSA received comments from Ferrari North America (FNA), the vehicle's original manufacturer. In its comments, Ferrari stated that while it agreed that the U.S. and the non-U.S. versions of the vehicle are "substantially similar" within the meaning of section 30141(a)(1)(A)(i), it strongly disputed JK's assertions that the non-U.S. version could be readily altered to comply with all applicable FMVSS. FNA elaborated by presenting detailed reasons for its assertions with respect to specific FMVSS.

On May 21, 2014, NHTSA forwarded FNA's comments to JK and asked that it respond by June, 4, 2014. By letter dated June 10, 2014, JK requested a 45 day extension in order to gather engineering data to adequately address the concerns raised by FNA. NHTSA approved JK's request for this extension and JK responded on August 15, 2014.

A summary of FNA's comments, JK's responses, and the conclusions that NHTSA has reached with regard to the issues raised by the parties is set forth below.

**REVIEW OF COMMENTS AND CONCLUSIONS:**

NHTSA has reviewed the petition, FNA's comments and JK's responses to those comments, and has concluded that the vehicles covered by the petition are capable of being readily altered to comply with all applicable FMVSS. However, NHTSA has also decided that an RI who imports or modifies one of these vehicles must include in the statement of conformity and associated documents (referred to as a "conformity package") it submits to NHTSA under 49 CFR 592.6(d) specific proof to confirm that the vehicle was manufactured to conform to, or was successfully altered to conform to, each of the following standards:

FMVSS No. 101, Controls and displays; FNA commented that the Electronic Control Unit ("ECU") for the instrument cluster would have to be reflashed with a "Proxy" file from the Ferrari factory to ensure that all of the other ECUs on the Control Area Network ("CAN") are aware of the new ECU and are communicating properly. FNA additionally commented that the necessary reprogramming to achieve conformity to the standard can only be completed with proprietary hardware and software which is not available to RI's and can only be obtained from Ferrari and/or FNA.

JK responded that they have the necessary equipment and can obtain the files from a donor vehicle.

NHTSA has decided that a description of how the programming changes were completed and how compliance with the standard was verified must be included in each conformity package.

Photographs, printouts, and/or images of the installation computer's monitor ("screenshots"), as practicable, must also be submitted as proof that the reprogramming was carried out successfully.

FMVSS No. 108, Lamps, reflective devices, and associated equipment; FNA commented that the reprogramming identified by JK would necessitate reflashing [the control system] with a "Proxy" file from the Ferrari Factory in order to assure that all aspects of the lighting system perform in accordance with this standard.

JK responded that they have the necessary equipment and can obtain the files from a donor vehicle.

NHTSA has decided that a description of how the programming changes were accomplished and how compliance with FMVSS No. 108 is verified must accompany each conformity package. Photographs, printouts, and/or screenshots, as practicable, must also be submitted as proof that the reprogramming was carried out successfully.

FMVSS No. 111, Rearview mirrors; FNA commented that in addition to the modifications noted in the petition, the driver's outside rearview mirror would need to be replaced.

JK responded that no comment is necessary.

NHTSA has decided that proof, including photographs, must be submitted with each conformity package to show that the vehicle is equipped with a driver's side rear view mirror that allows the vehicle to meet the applicable requirements of FMVSS No. 111.

FMVSS No. 114 Theft protection and rollaway prevention; As was the case with FMVSS Nos. 101 and 108, FNA contended that reprogramming could only be completed with proprietary hardware and software which is not available to RI's and can only be obtained from Ferrari and/or FNA.

JK responded that they have the necessary equipment and can obtain the files from a donor vehicle.

NHTSA has decided that a description of how the programming changes were completed and how compliance was verified must accompany each conformity package. Additionally, photographs, printouts, and/or screenshots, as practicable, must be submitted as proof that the reprogramming was carried out successfully.

FMVSS No. 118, Power-Operated window, Partition, and Roof Panel Systems; FNA commented that the reprogramming identified

by JK is not necessary for the vehicles to conform to the standard.

NHTSA has decided that a description of how the vehicle's conformity was determined must accompany each conformity package. Descriptions of any modifications necessary to achieve conformity must accompany each conformity package.

FMVSS No. 138, *Tire pressure monitoring systems*; In its petition JK claims that the subject non-U.S. certified vehicles conform to FMVSS No. 138 as originally manufactured. FNA commented that tire pressure monitoring systems (TPMS) are not standard equipment on all European Ferrari California vehicles and that substantial work would be required to bring vehicles into compliance with the standard. FNA further asserted that because of the extent and complexity of the required changes, vehicles not originally equipped with TPMS cannot be "readily altered" to comply with the standard.

JK responded that most non-U.S. certified MY 2010 Ferrari California PCs are equipped with TPMS, but that due to varying regulations around the world, some vehicles may be missing the system. JK further stated that all vehicles entering the U.S. would have to be inspected for compliance, both with regard to the material components of the system and to the programming of the system. JK also states that the vehicle they inspected had a system identical to that found in the U.S.-certified vehicle.

NHTSA has decided that a description of how any applicable modifications and/or programming changes were completed and how compliance was verified must accompany each conformity package. Additionally, photographs, printouts, and/or screenshots, as practicable, must be submitted as proof that the reprogramming and/or modifications were carried out successfully.

FMVSS No. 208, Occupant Protection; FNA commented that JK did not identify all components that need to be replaced in order to bring the airbag system into compliance. FNA specifically notes that the European versions of the subject of vehicles are not equipped with a "PASS AIR BAG OFF" telltale, which is required for compliance. Additionally, FNA stated that JK did not identify certain portions of the instrument panel that differ from those on the U.S.-certified version of the vehicle and that would have to be changed to assure compliance with the unbelted crash requirements of the standard.

JK responded that all vehicles processed under this petition must be inspected for compliance with all requirements of FMVSS No. 208. JK commented that the modifications for this standard concern the airbags, seats, seatbelts, wiring harnesses, air bag light, passenger air bag off light, instrument cluster, child seat tethers, and other hardware. JK also responded that the entire system would need to be programmed with the U.S. advanced air bag programs and that they



will run all system checks with their "in house" weighted dummies in order to confirm compliance.

NHTSA has decided that each conformity package must include a detailed description of the occupant protection system in place on the vehicle at the time it was delivered to the RI, and a similarly detailed description of the occupant protection system in place after the vehicle is altered, including photographs of all required labeling. The description must also include; assembly diagrams and associated part numbers for all components that were removed from and installed on the vehicle, a description of how the programming changes were completed, and a description of how compliance was verified. Additionally, photographs (e.g., screenshots) or report printouts, as practicable, must be submitted as proof that the reprogramming was carried out successfully. Proof must also be furnished that all portions of the instrument panel in the vehicle, as altered, are identical to the U.S. version instrument panel, or proof in the form of dynamic test results that, as altered, the vehicle conforms to the unbelted occupant requirements of FMVSS No. 208.

FMVSS No. 209, *Seat belt assemblies*; FNA commented that as pointed out by JK in their petition, some European market vehicles are equipped with four-point seat belt assemblies that do not comply with this standard. FNA contends that the belts

could not simply be replaced by a registered importer, due to the absence of an anchorage on the B-pillar.

JK responded that all vehicles processed under this petition would need to be inspected for compliance and that all parts of the system are available.

NHTSA has decided that each conformity package must include photographic evidence that conforming safety belts have been installed in the vehicle. Safety belt anchorages are addressed in the following FMVSS No. 210 discussion.

FMVSS No. 210, *Seat belt assembly anchorages*; In its petition JK claims that the subject non-U.S. certified vehicles conform to FMVSS No. 210 as originally manufactured. FNA commented that European-market vehicles that were equipped with optional four point harnesses lack b-pillar anchorages which are necessary for the installation of compliant three point harnesses. FNA expresses concern about the ability of an RI to install this anchorage and ensure that it meets the performance requirements of the standard without Ferrari's templates and tools, which are only used during production.

JK responded that any vehicle found to be equipped with the optional belts and lacking the mentioned anchorage would have to be modified to meet this standard. JK further states that they will draw a template from the U.S. donor vehicle and that as a result all parts and engineering of the

anchorage would then be identical to the Ferrari mounting point. JK asserts that less than one percent of production is equipped with the optional belts.

NHTSA has decided that conformity packages for vehicles that require modification must include a detailed description of the alterations made to achieve conformity with the standard. The description must include sufficient information to validate how the alterations allowed the vehicle to meet the requirements of the standard. This information must include photographic evidence that the modification was carried out, as well as testing and/or engineering analysis reports documenting how the RI has verified that the alterations will allow the vehicle to meet all applicable requirements of the standard.

FMVSS No. 301 Fuel system integrity; FNA stated that the modifications to the fuel system that JK identified in its petition, while necessary to comply with emissions requirements, have no bearing on compliance with FMVSS No. 301.

JK responded that the rollover valves incorporated in the U.S. market system are an integral part of the fuel system integrity of the vehicle and necessary for compliance.

NHTSA has decided that the fuel system modifications are necessary to bring vehicles into compliance with the standard. Additionally, NHTSA has decided that each conformity package

must include a detailed description of all modifications made to achieve conformity with the standard. This description must include part numbers for each part replaced and be supported with photographic evidence of the modifications made to achieve conformity.

FMVSS No. 401 Interior trunk release; FNA expressed agreement that the modifications noted in the petition are necessary to conform the vehicle. The company noted, however, that the reprogramming could only be completed with proprietary hardware and software which is not available to RI's and can only be obtained from Ferrari and/or FNA.

JK responded that it has the necessary programs from its U.S. model vehicle.

NHTSA has decided that each conformity package must include a description of how the programming changes were completed and how compliance was verified. Additionally, photographs, printouts, and/or screenshots, as practicable, must be submitted as proof that the reprogramming was carried out.

49 CFR Part 581, Bumper Standard; FNA commented that in addition to the modifications noted by JK in its petition, additional bumper reinforcements would have to be installed in both the front and the rear of the vehicle.

JK responded that no comment was necessary.

NHTSA has decided that each conformity package must include a detailed description of all modifications made to achieve conformity with the standard, including necessary modifications to the bumper reinforcements. This description must include part numbers for each part replaced and be supported with photographic evidence of the modifications made to achieve conformity.

In addition to the information specified above, each conformity package must include evidence showing how the RI verified that the changes it made in loading or reprogramming vehicle software to achieve conformity with each separate FMVSS, did not also cause the vehicle to fall out of compliance with any other applicable FMVSS.

**DECISION:**

Accordingly, on the basis of the foregoing, NHTSA hereby decides that model year 2010 European model Ferrari California passenger cars that were not originally manufactured to comply with all applicable FMVSS, are substantially similar to model year 2010 Ferrari California passenger cars manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal Motor Vehicle Safety Standards.

**VEHICLE ELIGIBILITY NUMBER FOR SUBJECT VEHICLES:**

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-570 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Issued on:**

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Jeffrey Giuseppe, Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P

[FR Doc. 2015-10264 Filed: 5/1/2015 08:45 am; Publication Date: 5/4/2015]